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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,679	09/18/2006	Brian Joseph Dutson	TORO0118PUSA	3813
22045	7590	01/22/2010	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			JOYCE, WILLIAM C	
			ART UNIT	PAPER NUMBER
			3656	
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			01/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,679	Applicant(s) DUTSON ET AL.	
	Examiner William C. Joyce	Art Unit 3656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-32 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

This is the First Office Action in response to the above identified patent application filed on September 18, 2006.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-10, and 18-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 8, 10, 18, and 20 the limitation "the larger of the input disc and output disc" lacks proper antecedent basis. It is unclear as to whether applicant intends to define one of the input or output disc being larger than the other of the input or output disc.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6-15, 17-25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Imanishi (JP 7-280055).

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Imanishi teaches a variator of the toroidal-race rolling-traction type comprising: a rotatably mounted input disc (2); an output disc (4) rotatably mounted coaxially with the input disc; a plurality of rollers (8) transmitting rotation between the input disc and the output disc; a plurality of actuators (47), each acting upon a respective one of the rollers; and a plurality of levers (43a,43b), each connected to a respective one of the rollers and its associated actuator, wherein each roller and its associated actuator is connected to a respective lever, each of the plurality of actuators is mounted to the same side of a horizontal plane aligned with and passing through the rotational axis of the variator discs (Fig. 3).

With respect to at least claims 10 and 18, Imanishi illustrates in Figures 5-6 the distance between the rotation axis of the input/output discs and the outer surface of the input/output discs being approximately equal to the distance between the rotation axis of the input/output discs and the center of the trunnion shaft (5).

Now referring to Figure 2, the actuators (47) are positioned farther from the rotation axis of the discs than the center of the trunnion shafts, and therefore the actuators must be positioned farther from the rotation axis than the outer periphery of the discs. Accordingly, the plurality of actuators are located radially outwardly of a common horizontal plane extending parallel to the rotational axis of the input and output discs and tangential to the lowest periphery point of the larger of the input disc and output disc.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imanishi (JP 7-280055).

Imanishi does not disclose a plurality of levers pivotally mounted about a first axis. Imanishi teaches friction rollers disposed in a single toroidal cavity. It was notoriously well known in the art to configure friction rollers in two separate toroidal cavities, wherein the actuators associated with the first toroidal cavity are aligned with the actuators of the second toroidal cavity. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of levers pivotally mounted about a first axis to actuate a plurality of friction rollers disposed in separate toroidal cavities, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8.

7. Claims 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imanishi (JP 7-280055) in view of Yamamoto (USP 5,971,886).

Imanishi does not disclose the cylinders disposed in a common cylinder block. The prior art to Yamamoto teaches a common cylinder block (52,62). It would

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have been obvious to one of ordinary skill in the art at the time the invention was made to provide the actuators of Imanishi with a common cylinder block, as taught by Yamamoto, motivation being to facilitate in the assembly and manufacture of the device.

Allowable Subject Matter

8. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Joyce whose telephone number is (571) 272-7107. The examiner can normally be reached on Monday - Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William C. Joyce/
Primary Examiner, Art Unit 3656